<center>REMARKS</center>

This application has been reviewed in light of the Office Action dated June 20, 2008. Claims 36-41 are presented for examination, of which Claim 36 is in independent form. Claims 36 and 39 have been amended to define still more clearly what Applicant regards as his invention. Favorable reconsideration is respectfully requested.

In the outstanding Office Action, Claims 36-39 and 41 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 5,440,632 (Bacon et al.), and Claim 40 was rejected under 35 U.S.C. § 103(a) as being obvious from *Bacon* in view of U.S. Patent 6,009,274 (Fletcher et al.). In addition, Claims 36, 38 and 40 were rejected for obviousness-type double patenting, over Claims 1-3 of U.S. Patent 6,728,956 (Ono).

As discussed in the specification, a program used for system start-up, such as firmware for obtaining executing environments for application programs, is generally stored in a nonvolatile memory of the system and may need to be upgraded from time to time. It is important to complete each upgrade or continue using the version before the upgrade, or the system will not be able to start up.

The present invention has been made to achieve this objective in a user-interactive environment. It relates to a system where a user may use an input portion (a keyboard, etc.; 611 in Fig. 6) to, for example, guide an upgrade by designating an upgrade version number, and use a display device (a screen, etc.; 613 in Fig. 6) to see the status of various transactions ("on program updating," etc.). To ensure successful completion of an upgrade, the system avoids user interference during the download of an upgraded version by disabling input from a user and further output to a user – inhibiting the display of additional images to a user (S806 in Fig. 8; no change of display during download between

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S808 and S904 in Figs 8 and 9). It also validates the downloaded content when the download is supposedly complete.

Claim 36 recites, among other features, "display control means for displaying an image on a screen regarding the stored program in accordance with the received broadcast waves; ... inhibition means for inhibiting said display control means from displaying additional images on the screen on the screen in accordance with the broadcast waves while said update means is updating the program."

Nothing in *Bacon* is believed to teach or suggest the features recited above. The Examiner appears to consider the "on screen display control" (*see* item 127 in Fig. 2 and col 7., lines 40-49, of *Bacon*) in *Bacon* as the display control means of Claim 36 and something that inhibits the display of programming as the inhibition means.

As Applicant understands, *Bacon* relates to a reconfigurable subscriber terminal of a subscription television service. A subscriber terminal has conventionally provided the function of managing a subscription, such as authorizing a subscriber's access to a particular channel, and managing the subscribed television programming, such as tuning a channel outside the capacity of the subscriber's receiver, which actually displays the television programming (*see* col. 1, lines 10-24). The reconfiguration of a subscriber terminal in *Bacon* is done by upgrading the control/boot program for the subscriber terminal. Conceivably, when the upgrade is being performed, the subscription service would not be available, which means that the subscribed television programming would not be available (*see* col. 16, lines 19-34).

The on screen display control in *Bacon* "selectively generates on screen character and graphic displays in place of or overlaid on the video signal" – thus involving

mere generation/editing of a video signal – which is to be combined with an audio signal, converted to an appropriate channel frequency, and eventually supplied as an RF output (*see* col. 7, lines 42-51). Meanwhile, what may be considered as a stored program in *Bacon* is probably the control/boot program that controls the overall operation of a subscriber terminal, including the on screen display control (*see* item 128 in Fig. 2B and col. 7, line 52 through col. 8, line 45, of *Bacon*).

Applicant submits that the on screen display control does not display anything on a screen, certainly nothing regarding the boot/control program. Accordingly, the displays control means of Claim 1, which "displays an image on a screen regarding the stored program," is missing from *Bacon*.

Furthermore, since the on screen display control is part of the subscriber terminal while the display of subscribed television programming is done by the subscriber's receiver, which is not part of the subscriber terminal, it is unlikely that whatever inhibits the display of such programming could be the "inhibition means for inhibiting said display control means," as recited in Claim 36.

Accordingly, for at least the reasons noted above, Claim 36 is believed patentable over *Bacon*, and withdrawal of the Section 102(b) rejection is respectfully requested.

Furthermore, Claims 1-3 of *Ono* do not disclose the inhibition means of Claim 36. As explained above, the inhibition means inhibits the display of additional images or messages on the screen, in accordance of the received broadcast waves, during the update of the stored program. Therefore, it does not seem necessary to Applicant to distinguish between update information and non-update information, and Claims 1-3 of

Ono simply do not address features of the inhibition means. Accordingly, withdrawal of the double-patenting rejection is respectfully requested.

A review of the other art of record has failed to reveal anything which, in Applicant's opinion, would remedy the deficiencies of the art discussed above, as references against independent Claim 36, and that claim is therefore believed patentable over the art of record.

The other claims in this application are each dependent from Claim 36, and are therefore believed patentable for the same reasons. Since each dependent claim is also deemed to define an additional aspect of the invention, however, the individual reconsideration of the patentability of each on its own merits is respectfully requested.

This Amendment After Final Action is believed clearly to place this application in condition for allowance and its entry is therefore believed proper under 37 C.F.R. § 1.116. In any event, however, entry of this Amendment After Final Action, as an earnest effort to advance prosecution and reduce the number of issues, is respectfully requested. Should the Examiner believe that issues remain outstanding, he is respectfully requested to contact Applicant's undersigned attorney in an effort to resolve such issues and advance the case to issue.

In view of the foregoing amendments and remarks, Applicant respectfully requests favorable reconsideration and early passage to issue of the present application.

Applicant's undersigned attorney may be reached in our New York Office by telephone at (212) 218-2100. All correspondence should continue to be directed to our address listed below.

Respectfully submitted,

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